



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Virginia Department of Agriculture and Consumer Services
<b>VAC Chapter Number:</b>	2 VAC 5-450
<b>Regulation Title:</b>	Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law
<b>Action Title:</b>	Retain
<b>Date:</b>	May 10, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes 1) a nursery with one or more sales locations shall not be required to register each separate location; 2) that Narcissus plants, bulbs and vegetable transplants destined for shipment out of the Commonwealth are nursery stock; 3) field grown vegetable transplants inspected during the growing season, and again when pulled and packed may be eligible for certification and 4) that European black currant plants may not be moved to any destination in Virginia.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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Section 3.1-188.35 of the Code of Virginia (1950), as amended states the Board of Agriculture and Consumer Services shall promulgate rules and regulations as are necessary for the efficient execution of the provisions of Article 7, Plant and Plants Products Inspection Law. This regulation is mandatory to execute Sections 3.1-188.32, 3.1-188.34 and 3.1-188.36 of the Plant and Plant Products Inspection Law.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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The Department published its notice in The Virginia Register of Regulations on February 12, 2001 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The agency did not receive any public comment concerning this regulation. An informal advisory group was not formed for the purpose of assisting with this periodic review.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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Virginia is a producer of narcissus plants, narcissus bulbs, and vegetable transplants for shipment to other states and countries. Some importing states and countries require pest-free certification of narcissus plants, narcissus bulbs, and vegetable transplants. This regulation provides for certification of these products to states and countries requiring such certification. During the 1999 growing season, 35 acres of vegetable transplants (3,828,500 plants) of six crop varieties were inspected and certified for export. Nine acres of narcissus bulbs (450,000 bulbs per acre) were inspected and certified. Approximately 20,000 narcissus bulbs (valued at up to \$10.00 per bulb) were certified for shipment to Holland for propagation of unique Virginia varieties. Without this regulation, Virginia producers of narcissus plants, narcissus bulbs, and vegetable transplants would not be able to market these commodities in many states and countries.

The regulation also regulates the shipment of the alternate host<sup>1</sup>, European black currant, of the disease affecting white pine trees, White Pine Blister Rust. This provision protects Virginia's 414 nurseries, many of which stock white pine trees for sale. Specifically, Christmas tree farming has become a major agricultural industry in Virginia, with more than a million trees harvested and sold annually from hundreds of farms throughout the state. The majority of the Virginia-grown trees are white pines. Without this regulation, all of Virginia's white pine trees, whether grown for Christmas trees or for landscape plantings, could be at risk of becoming infected with white pine blister rust from exposure to infected European black currant plants.

The regulation is clearly written and easily understood by the individuals and entities affected.

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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The agency has considered, during the course of this review, the following alternatives:

The regulation favors the cultivation of white pine at the expense of European black currants (the regulation prohibits moving that kind of currant to any location in the Commonwealth). The agency could favor European black currants at the expense of white pine. The agency rejects this alternative because of the economic importance of white pine to the Commonwealth's economy.

Also, the agency considered as an alternative requiring each business location of a nursery to file for and obtain a separate license for each location. However, even if the agency were to determine that there is sufficient statutory authority for such a proposition, the agency rejects this alternative as unnecessary and economically burdensome to the nursery industry.

## Recommendation

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The agency recommends that the regulation be retained in its current form.

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<sup>1</sup> The fungus lives part of the year in the European black currant plants and part of the year in the white pines--hence the term "alternate hosts."

**Family Impact Statement**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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Unless otherwise discussed in this report, this regulation has no impact upon families.